

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Siting  
Rulemaking**

**Case No. PU-17-339**

**Public Service Commission  
Pipeline Safety  
Rulemaking**

**Case No. GS-17-370**

**Public Service Commission  
Wind Decommissioning  
Rulemaking**

**Case No. PU-17-371**

**ORDER SUBMITTING RULES TO ATTORNEY GENERAL**

**March 29, 2018**

**Appearances**

Commissioners Randy Christmann, Brian Kroshus, and Julie Fedorchak

**Preliminary Statement**

On November 29, 2017, the North Dakota Public Service Commission (Commission) issued a formal Notice of Intent to Amend Administrative Rules and Notice of Public Hearing and Abbreviated Notice of Intent to Amend Administrative Rules and Notice of Public Hearing, proposing to amend section 69-06-08-01, propose new chapter 69-06-11, amend section 69-09-03-02, and proposing new section 69-09-09-10 of the North Dakota Administrative Code.

On November 29, 2017, Staff filed statements regarding the required regulatory analysis, small entity analysis, and takings assessments.

On December 4, 2017, the Commission forwarded the notices to the Legislative Council for publication at least 30 days in advance of the hearing.

On December 5, 2017, an email containing the proposed rules was submitted to each sponsor and cosponsor of implemented 2017 HB 1378 and related legislation 2017 SB 2313. Although the email and affidavit of service state that a full notice was provided, a copy of the full notice was inadvertently not enclosed.

The Abbreviated Notice was published once in each of the 52 official county newspapers in the state during the weeks of December 5 through December 11, 2017.

17 **GS-17-370** Filed: 3/29/2018 Pages: 18  
**Order Submitting Rules to Attorney General**

17 **PU-17-371** Filed: 3/29/2018 Pages: 18  
**Order Submitting Rules to Attorney General**

21 **PU-17-339** Filed: 3/29/2018 Pages: 18  
**Order Submitting Rules to Attorney General**

On January 3, 2018, the Commission held the public hearing as noticed, beginning at 9:00 a.m., CST, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The Commission allowed a comment period until January 18, 2018, during which the Commission received and considered data, views, or written or oral comments concerning the proposed rulemaking as part of the rulemaking record.

The proposed rules and amendments are summarized as follows:

**Case No. PU-17-339 - Section 69-06-08-01- Energy Conversion Facility Siting Criteria**

The Commission proposed to amend North Dakota Administrative Code section 69-06-08-01 to reflect changes to North Dakota Century Code section 49-22-05.1 enacted during the 2017 legislative session (SB 2313) regarding setbacks from the inhabited residence of a nonparticipating landowner.

**Case No. PU-17-339 – New Chapter 69-06-11 - Wind Energy Conversion Facility Lighting Systems**

The Commission proposed new Chapter 69-06-11 to implement 2017 House Bill 1378 enacted during the Sixty-fifth legislative session as North Dakota Century Code section 49-22-16.4, providing that the North Dakota Public Service Commission “shall adopt rules relating to the implementation of light-mitigating technology systems on wind energy conversion facilities.”

**Case No. GS-17-370 – Section 69-09-03-02 - Pipeline Safety**

The Commission proposed to adopt, by reference, the most recent amendments to pipeline safety regulations adopted by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA). The Commission also proposed to amend section 69-09-03-02 to include safety standards for liquefied natural gas (LNG) facilities.

**Case No. PU-17-371 - Section 69-09-09-10 - Wind Decommissioning**

The Commission proposed the addition of section 69-09-09-10 to provide that the Commission may grant a waiver of requirements under North Dakota Administrative Code section 69-09-09-03, section 69-09-09-06, and section 69-09-09-08 for a commercial

wind energy conversion facility with a nameplate generating capacity of no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.

### **Public Hearing and Comments**

The Commission reviewed and considered all comments. The written and oral comments that were received are summarized and discussed below by case number.

#### **Case No. PU-17-339 - Section 69-06-08-01- Energy Conversion Facility Siting Criteria and New Chapter 69-06-11 - Wind Energy Conversion Facility Lighting Systems**

Written and oral comments by Jerry Lein of Commission Staff were provided at the hearing. Lyle Best, MD and Doug Darling, Ph.D., President of Lake Regional State College (Lake Region) provided written comments. During the hearing, Jean Schafer testified and provided comments on behalf of Basin Electric Power Cooperative (Basin).

##### **69-06-08-01: Wind Energy Conversion Facility Siting Criteria**

Commission Staff provided comments describing the proposal to amend the North Dakota Administrative Code section 69-06-08-01(2)(a)(5) to reflect the changes from the 2017 legislative session to North Dakota Century Code section 49-22-05.1 establishing a minimum wind turbine setback of three times the height of the turbine from an inhabited residence of a nonparticipating landowner.

The Commission received no further comments regarding this section and the Commission proposes to adopt this amendment without revisions.

##### **69-06-11: Wind Energy Conversion Facility Lighting Systems**

Commission Staff provided comments describing the new proposed chapter 69-06-11 to implement House Bill 1378 enacted during the 2017 legislative session as North Dakota Century Code section 49-22-16.4, providing that the Commission shall adopt rules relating to the implementation of light-mitigating technology systems on wind energy conversion facilities. The proposed new chapter provides that a wind energy conversion facility permitted after June 5, 2016 must be equipped with a functioning United States Department of Transportation, Federal Aviation Administration (FAA) approved light-mitigating technology by December 31, 2019. Facilities permitted before June 5, 2016 must be equipped by December 31, 2021. The rules provide that an extension may be granted based upon technical or economic feasibility considerations. The new chapter provides that the Commission may grant a waiver of the requirements for a wind energy conversion facility designed to produce up to five megawatts.

Lyle Best, MD. Mr. Best's written statement provided a number of comments outside the scope of the rulemaking regarding the reduction of flaring, reduction of energy consumption, and recommendations to the legislature before addressing the proposed rules. As a licensed private pilot, Mr. Best's comments on the proposed rules expressed concern with the reliability of a system that is "intermittent and dependent on (most likely) a radar detection system" and the risk of a more complex system having more modes of failure; the dangers of a hostile act or electronic interference preventing the wind turbine from lighting; concerns of litigation, liability and electronic records upon system failure; and whether the Commission will ensure parity between wind farms and other structures, such as radio towers.<sup>1</sup>

The commission considered Mr. Best's comments and concerns. As proposed, the rules require each light mitigating technology to be installed, operated, and maintained in accordance with FAA regulations. The purpose of aeronautical studies for FAA approval is to ensure safe and efficient use of navigable airspace and air navigation equipment.<sup>2</sup> FAA regulations provide standards for inspection, repair and safety of lighting operations including daily monitoring and logging of system operations,<sup>3</sup> partial permanent illumination of projects near obstructions to maintain safety,<sup>4</sup> automatic turning on of lights in the event of system failure,<sup>5</sup> and outage reporting.<sup>6</sup> The legislature has not expressed intent for the Commission to determine liability as part of this rulemaking, and lighting for other structures such as radio towers is currently beyond the Commission's jurisdiction.

Basin Electric submitted comments for proposed North Dakota Administrative Code section 69-06-11-03. Basin commented that FAA approval is needed for modification or replacement of a wind farm's existing lighting system. The process may take a minimum of 90-120 days for approval. Basin commented that this process is complicated for a wind farm in close proximity to the Minot Air Force Base that surrounds a ballistic missile and helicopter pad and that changing the lighting system also requires approval from the United States Air Force. To allay their concerns, Basin requested a

---

<sup>1</sup> PU-17-339, Docket No. 16.

<sup>2</sup> 14 CFR § 77.1

<sup>3</sup> See Advisory Circular No. 70/7460-1L, 4-4, Section 4.8. "Obstruction lighting systems should be closely monitored by visual or automatic means. It is extremely important to visually inspect obstruction lighting in all operating intensities at least once every 24 hours on systems without automatic monitoring. . . . For each structure, a log should be maintained in which the lighting system's daily operations status is recorded."

<sup>4</sup> Id. at 14-2, Section 14.2.3. "It may be appropriate to keep certain obstructions closest to . . . activity areas illuminated during the nighttime hours, while the remainder of the group's obstruction lighting is controlled by ADLS."

<sup>5</sup> Id. at 14-2. Section 14.2.5. "In the event of an ADLS component or system failure, the ADLS should automatically turn on all the obstruction lighting and operate . . . as if it was not controlled by ADLS. The obstruction lighting must remain in this state until the ADLS and its components are restored."

<sup>6</sup> See *generally* Id. at 2.4. Reporting by FAA requirements is achieved by calling Outage Reporting and Notice to Airmen.

revision so that approval also be needed from “any other federal agency with regulatory authority.”

The commission considered Basin’s comments and proposed revision and believes that revising the proposed rule so that the systems simply must be installed, operated and maintained in accordance with 14 Code of Federal Regulations (CFR) 1.1. et. seq., but not specify the necessity of “approval prior to implementation” may provide a clearer alternative. By installing and operating in compliance with Title 14 CFR Part 77, Basin’s concerns regarding proximity to the Minot Air Force Base and ballistic missile base should be addressed. Under 14 CFR § 77.5, any proposed construction or alteration must provide adequate notice for the FAA to determine appropriate marking and lighting recommendations.<sup>7</sup> As part of aeronautics studies and approval, the FAA considers the impact and proximity to flight routes, military use, airports, and the “interests of national security as determined by the Secretary of Defense.”<sup>8</sup>

Lake Region, submitted comments that the college operates a single turbine located just over 3 miles from the Devil’s Lake Airport. Lake Region’s comments expressed concern that the implementation of light mitigating technology is cost prohibitive with the turbine’s energy performance contract providing “just enough” to cover the payments for the purchase and construction of the turbine not funded by legislative appropriation.<sup>9</sup> As a result, Lake Region requests a waiver as written in proposed N.D. Admin. Code § 69-06-11-02(3).<sup>10</sup> The final proposed rules provide for extensions due to economic and technical inability to implement the technology, and retain the waiver up to five megawatts.

After reviewing the comments for the new chapter 69-06-11, the Commission adopts the rules as revised.

### **Case No. GS-17-370 – Section 69-09-03-02 - Pipeline Safety**

Written and oral comments by the Director of Public Utilities, Patrick Fahn, were provided at the hearing on behalf of Commission Staff. The Commission received no further comments regarding this section.

Commission Staff provided comments that under North Dakota Administrative Code chapter 69-09-03, the Commission adopts by reference the most recent amendments to pipeline safety regulations adopted by PHMSA.

---

<sup>7</sup> 14 CFR § 77.5

<sup>8</sup> Title 49 CFR § 44718; *See also* 14 CFR § 77.5(c)(3) and Advisory Circular No. 70/7460-1L, Section 14.2.3 (The FAA may deny ADLS applications based upon “proximity of the obstruction or group of obstructions to airports, low-altitude flight routes, military training areas, or other areas of frequent flight activity.”)

<sup>9</sup> PU-17-339, Docket No. 17, 18.

<sup>10</sup> PU-17-339, Docket No. 18.

For gas pipeline safety and hazardous liquids pipeline safety, this proposed amendment updates and adopts by reference the current December 31, 2017 PHMSA safety regulations. The proposed amendments also update the rules to include the current December 31, 2017 PHMSA safety standards for LNG facilities under Title 49 CFR Part 193. Although the Commission currently has statutory authority over liquefied natural gas facilities, there were no jurisdictional intrastate liquefied natural gas facilities in North Dakota until 2017. As a result, PHMSA safety standards for LNG facilities are part of the proposed rulemaking.

The Commission received no further comments regarding this section and proposes to adopt these amendments without revision.

### **Case No. PU-17-371 -- Section 69-09-09-10 - Wind Decommissioning**

Written and oral comments by Jerry Lein of Commission Staff were provided at the hearing. Staff testified that the Commission is proposing to amend the North Dakota Administrative Code chapter 69-09-09 to add a new section 69-09-09-10 establishing an ability to exempt small projects of only one or two turbines from certain decommissioning requirements:

The commission may grant a waiver of any requirement described in sections 69-09-09-03, 69-09-09-06, or 69-09-09-08 for a commercial wind energy conversion facility with a nameplate generating capacity of no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.

The Commission received no further comments regarding this section and the Commission proposes to adopt this new section without revision.

### **Discussion**

The Commission agrees with adopting the proposed chapter 69-06-11 as revised and all other new sections or amendments without revisions.

Having reviewed the proposed rules, and the testimony and comments received, the Commission finds good cause for submitting the proposed rules, attached to and made a part of this order, to the Attorney General for an opinion as to legality.

### **Order**

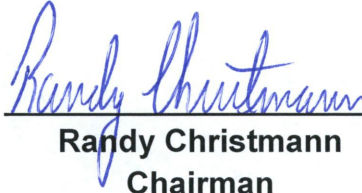
The Commission orders the proposed chapter 69-06-11, as revised, the proposed new section 69-09-09-10 and the proposed amendments to the North Dakota

Administrative Code attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are approved as to legality.

**PUBLIC SERVICE COMMISSION**



**Brian Kroshus  
Commissioner**



**Randy Christmann  
Chairman**



**Julie Fedorchak  
Commissioner**

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Public Service Commission  
Siting  
Rulemaking

Case No. PU-17-339

March 29, 2018

ARTICLE 69-06  
ENERGY CONVERSION AND TRANSMISSION FACILITY SITING

Chapter	
69-06-01	General Provisions
69-06-02	Utility Reporting Requirements
69-06-02.1	Requests for Jurisdictional Determination
69-06-03	Letter of Intent [Repealed]
69-06-04	Certificate of Site Compatibility
69-06-05	Transmission Facility Permit
69-06-06	Waiver of Procedures and Time Schedules
69-06-07	Emergency Certificate or Permit [Repealed]
69-06-08	Criteria
69-06-09	Continuing Suitability of Certificate or Permit
69-06-10	Small Wind Energy Conversion Facilities
<u>69-06-11</u>	<u>Wind Energy Conversion Facility Lighting Systems</u>

**69-06-08-01. Energy conversion facility siting criteria.**

The following criteria must guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas must be excluded in the consideration of a site for an energy conversion facility.
  - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
  - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
  - c. County parks and recreational areas; municipal parks; parks owned or

administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.

- d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, this exclusion does not apply.
- e. Irrigated land.
- f. Areas critical to the life stages of threatened or endangered animal or plant species.
- g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
- h. Areas within one thousand two hundred feet of the geographic center of an intercontinental ballistic missile (ICBM) launch or launch control facility.

2. **Additional exclusion areas for wind energy conversion facilities.** The following geographical areas must be excluded in the consideration of a site for a wind energy conversion facility:

- a. Areas ~~less than~~ within:
  - (1) One and one-tenth times the height of the turbine from interstate or state roadway right of way;
  - (2) One and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway;
  - (3) One and one-tenth times the height of the turbine from any railroad right of way;
  - (4) One and one-tenth times the height of the turbine from a one hundred fifteen kilovolt or higher transmission line; and
  - (5) One and one-tenth times the height of the turbine from the property line of a nonparticipating landowner and three times the height of the turbine from an inhabited rural residence of a

nonparticipating landowner, unless a variance is granted. A variance may be granted if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing all parties' support for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in North Dakota Century Code chapter 17-04.

3. **Avoidance areas.** The following geographical areas may not be approved as a site for an energy conversion facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. Economic considerations alone will not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area must be included. Natural screening may be considered in determining the width of the buffer zone.
  - a. Historical resources which are not designated as exclusion areas.
  - b. Areas within the city limits of a city or the boundaries of a military installation.
  - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
  - d. Areas that are geologically unstable.
  - e. Woodlands and wetlands.
  - f. Areas of recreational significance which are not designated as exclusion areas.
4. **Additional avoidance areas for wind energy conversion facilities.** A wind energy conversion facility site must not include a geographic area where, due to operation of the facility, the sound levels within one hundred feet of an inhabited residence or a community building will exceed fifty dBA. The sound level avoidance area criteria may be waived in writing by the owner of the occupied residence or the community building.
5. **Selection criteria.** A site may be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or

that those effects will be managed and maintained at an acceptable minimum. The effects to be considered include:

- a. The impact upon agriculture:
  - (1) Agricultural production.
  - (2) Family farms and ranches.
  - (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
  - (4) Surface drainage patterns and ground water flow patterns.
  - (5) The agricultural quality of the cropland.
  
- b. The impact upon the availability and adequacy of:
  - (1) Law enforcement.
  - (2) School systems and education programs.
  - (3) Governmental services and facilities.
  - (4) General and mental health care facilities.
  - (5) Recreational programs and facilities.
  - (6) Transportation facilities and networks.
  - (7) Retail service facilities.
  - (8) Utility services.
  
- c. The impact upon:
  - (1) Local institutions.
  - (2) Noise-sensitive land uses.
  - (3) Light-sensitive land uses.
  - (4) Rural residences and businesses.
  - (5) Aquifers.

- (6) Human health and safety.
  - (7) Animal health and safety.
  - (8) Plant life.
  - (9) Temporary and permanent housing.
  - (10) Temporary and permanent skilled and unskilled labor.
- d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.
6. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits. The benefits to be considered include:
- a. Recycling of the conversion byproducts and effluents.
  - b. Energy conservation through location, process, and design.
  - c. Training and utilization of available labor in this state for the general and specialized skills required.
  - d. Use of a primary energy source or raw material located within the state.
  - e. Not relocating residents.
  - f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
  - g. Economies of construction and operation.
  - h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
  - i. Use of citizen coordinating committees.
  - j. A commitment of a portion of the energy produced for use in this state.
  - k. Labor relations.
  - l. The coordination of facilities.

- m. Monitoring of impacts.
- n. A commitment to install lighting mitigation technology for wind energy conversion facilities subject to commercial availability and federal aviation administration approval.

**History:** Amended effective August 1, 1979; July 1, 2006; April 1, 2013; July 1, 2017; \_\_\_\_\_.

**General Authority:** NDCC 28-32-02, NDCC 49-22-18

**Law Implemented:** NDCC 49-22-05.1, NDCC 49-22.1-03

## **CHAPTER 69-06-11** **Wind Energy Conversion Facility Lighting Systems**

### Section

69-06-11-01 Definitions

69-06-11-02 Implementation

69-06-11-03 Service, Maintenance, Safety, and Lighting System Standards

### **69-06-11-01. Definitions.**

In this chapter:

1. "Aircraft Detection Lighting System" means a sensor-based system designed to detect aircraft as they approach a wind energy conversion facility; this system automatically activates obstruction lights until they are no longer needed.
2. "Commission" means the public service commission.
3. "Light Intensity Dimming Solution Technology" means obstruction lighting that provides a means of tailoring the intensity level of lights according to surrounding visibility.
4. "Light-Mitigating Technology System" means aircraft detection lighting system, lighting intensity dimming solution technology, or a comparable solution capable of reducing the impact of nighttime lighting while maintaining night conspicuity sufficient to assist aircraft in identifying and avoiding collision with the facilities.
5. "Owner" means a person who holds a certificate of site compatibility pursuant to North Dakota Century Code chapter 49-22.
6. "Wind Energy Conversion Facility" means any plant, addition, or combination of plant and addition, designed for or capable of generation

by wind energy conversion exceeding one-half megawatt of electricity.

**69-06-11-02. Implementation.**

1. A wind energy conversion facility for which a certificate of site compatibility was issued after June 5, 2016 must be equipped with a functioning light-mitigating technology in compliance with this chapter by December 31, 2019.
2. A wind energy conversion facility for which a certificate of site compatibility was issued before June 5, 2016 must be equipped with a functioning light-mitigation technology in compliance with this chapter by December 31, 2021. The Commission may grant an extension of time based on technical or economic feasibility considerations.
3. The commission may grant a waiver of this chapter for a wind energy conversion facility designed for or capable of generating no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.
4. To allow proper conspicuity of a turbine at night during construction, a turbine may be lighted with temporary lighting until the permanent lighting configuration including the light mitigation technology is implemented.
5. Owner shall provide written notice to the commission upon implementation of light-mitigating technology in compliance with this chapter.
6. Owner is solely responsible for any costs associated with the implementation, operation, and maintenance of each light-mitigating technology system.
7. An extension request must be in writing and contain:
  - a. The purpose of the extension;
  - b. A description of the light-mitigating technologies submitted to the Federal Aviation Administration;
  - c. The technical or economic inability to implement light-mitigation technology systems;
  - d. The length of extension requested; and
  - e. Any other information requested by the commission.

**69-06-11-03. Service, Maintenance, Safety, and Lighting System Standards.**

Each light-mitigating technology system must be installed, operated, and maintained in accordance with United States Department of Transportation Federal

Aviation Administration regulations [14 CFR 1.1. et. seq] in effect as of [date of publishing rules].

History: Amended Effective 2017.

General Authority: NDCC 28-32-02, NDCC 49-22-18

Law Implemented: NDCC 49-22-16.4

**State of North Dakota**  
**Public Service Commission**

**Public Service Commission**  
**Pipeline Safety**  
**Rulemaking**

**Case No. GS-17-370**

**69-09-03-02. Adoption of regulations.** The following parts of title 49, Code of Federal Regulations in effect as of ~~December 31, 2015~~December 31, 2017, are adopted by reference:

1. Part 190 - Pipeline Safety Programs and Rulemaking  
Procedures.
2. Part 191 - Transportation of Natural Gas and Other Gas by  
Pipeline, Annual Reports, Incident Reports, and Safety-Related  
Condition Reports.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum  
Federal Safety Standards.
4. Part 193 – Liquefied Natural Gas Facilities: Federal Safety Standards
- 4.5. Part 194 – Response Plans for Onshore Oil Pipelines
- 5.6. Part 195 - Transportation of Hazardous Liquids by Pipeline.
- 6.7. Part 199 - Drug and Alcohol Testing.

Copies of these regulations may be obtained from:

Public Service Commission  
600 East Boulevard, Dept. 408  
Bismarck, ND 58505-0480

**History:** Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002; November 1, 2003; May 1, 2005; July 1, 2006; April 1, 2008; January 1, 2010; April 1, 2012; April 1, 2015; October 1, 2016, \_\_\_\_\_.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 49-02-01.2

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Public Service Commission  
Wind Decommissioning  
Rulemaking

Case No. PU-17-371

CHAPTER 69-09-09  
WIND FACILITY DECOMMISSIONING

Section

<del>69-9-9-1</del> 69-09-09-01	Definitions
<del>69-9-9-2</del> 69-09-09-02	Decommissioning Responsibility
<del>69-9-9-3</del> 69-09-09-03	Abandonment and Useful Life - Certificate of Operation
69-09-09-04	Decommissioning Period
<del>69-9-9-5</del> 69-09-09-05	Decommissioning Requirements
<del>69-9-9-6</del> 69-09-09-06	Decommissioning Plan
<del>69-9-9-7</del> 69-09-09-07	Existing Facilities
<del>69-9-9-8</del> 69-09-09-08	Financial Assurance
<del>69-9-9-9</del> 69-09-09-09	Failure to Decommission

**69-09-09-10. Wind Energy Conversion Facility – Waiver**

The commission may grant a waiver of any requirement described in sections 69-09-09-03, 69-09-09-06, or 69-09-09-08 for a commercial wind energy conversion facility with a nameplate generating capacity of no more than five megawatts of electricity upon a motion demonstrating good cause for the waiver.

**History:** Effective

**General Authority:** NDCC 28-32-02, 49-02-27

**Law Implemented:** NDCC 49-02-27